
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1268 Session of
2003

INTRODUCED BY ROBERTS, ROONEY, FABRIZIO, DeLUCA, TANGRETTI,
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LEVANSKY, HORSEY, YOUNGBLOOD AND CREIGHTON, APRIL 30, 2003

REFERRED TO COMMITTEE ON LABOR RELATIONS, APRIL 30, 2003

AN ACT

1 Prohibiting mandatory overtime and excessive duty hours of
2 health care workers.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Restricted
7 Overtime for Health Care Workers Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Declared state of emergency." An officially designated
13 state of emergency that has been declared by a Federal, State or
14 local government official having authority to declare that the
15 State, county, municipality or locality is in a state of
16 emergency. The term does not include a state of emergency which
17 results from a labor dispute in the health care industry.

1 "Department." The Department of Health of the Commonwealth.

2 "Employee." A nonsupervisory individual employed by a health
3 care facility who receives an hourly wage or is classified as a
4 nonsupervisory employee for collective bargaining purposes.

5 "Health care facility." A facility licensed by either the
6 Department of Health or the Department of Corrections.

7 "Mandatory" or "mandate." Any request which if refused or
8 declined by the employee may result in discharge, discipline,
9 loss of promotion or other adverse employment consequence.

10 "Nursing care." Care which falls within the scope of
11 practice set forth in the applicable nurse practice act or
12 otherwise encompasses recognized professional standards of
13 nursing practice.

14 "Off-duty." An individual that has no restrictions placed on
15 the individual's whereabouts and is free of all restraint or
16 duty on behalf of the health care facility.

17 "On-duty." An individual that is required to be available
18 and ready to perform services on request within or on behalf of
19 the health care facility and includes any rest periods or breaks
20 during which the individual's ability to leave the health care
21 facility is restricted either expressly or by work-related
22 circumstances beyond the individual's control.

23 "Rest period." A period in which an individual may be
24 required to remain on the premises of the health care facility
25 but is free of all restraint or duty or responsibility for work
26 or duty should the occasion arise.

27 Section 3. Prohibition.

28 (a) Mandatory overtime.--

29 (1) Notwithstanding any other provision of law to the
30 contrary and subject only to the exceptions included in this

1 section, a health care facility may not mandate or otherwise
2 require, directly or indirectly, an employee to work or be in
3 on-duty status in excess of any one of the following:

4 (i) the regularly scheduled work shift or duty
5 period;

6 (ii) twelve hours in a 24-hour period; or

7 (iii) eighty hours in a 14-consecutive-day period.

8 (2) Nothing in this subsection is intended to prohibit
9 an employee from voluntarily working overtime.

10 (b) Maximum hours.--

11 (1) No employee may work or be in on-duty status more
12 than 16 hours in any 24-hour period.

13 (2) Any employee working 16 hours in any 24-hour period
14 must have at least eight consecutive hours off duty before
15 being required to return to duty.

16 (3) No employee may be required to work or be on duty
17 more than seven consecutive days without at least one
18 consecutive 24-hour period off duty within that time.

19 Section 4. Exceptions.

20 (a) Declared state of emergency.--

21 (1) During a declared state of emergency in which a
22 health care facility is requested or otherwise reasonably may
23 be expected to provide an exceptional level of emergency or
24 other medical services to the community, the mandatory
25 overtime prohibition in section 3(a) shall be lifted to the
26 following extent:

27 (i) Employees may be required to work or be on duty
28 up to the maximum hour limitations set forth in section
29 3(b) provided the health care facility has taken the
30 steps set forth in this section.

1 (ii) Prior to requiring any employee to work
2 mandatory overtime, the health care facility must make
3 reasonable efforts to fill its immediate staffing needs
4 through alternative efforts, including requesting off-
5 duty staff to voluntarily report to work, requesting on-
6 duty staff to volunteer for overtime hours and recruiting
7 per diem personnel to report to work.

8 (iii) This exemption shall not exceed the duration
9 of the declared state of emergency or the health care
10 facility's direct role in responding to medical needs
11 resulting from the declared state of emergency, whichever
12 is less.

13 (2) During a declared state of emergency in which a
14 health care facility is requested to provide an exceptional
15 level of emergency or other medical services to the
16 community, the maximum hours limitation in section 3(b) shall
17 be lifted to the following extent:

18 (i) Employees may work or remain on duty for more
19 than the maximum hour limitations set forth in section
20 3(b) provided:

21 (A) The decision to work the additional time is
22 voluntarily made by the individual employee affected.

23 (B) The employee is given at least one
24 uninterrupted four-hour rest period before the
25 completion of the first 16 hours of duty and an
26 uninterrupted eight-hour rest period at the
27 completion of 24 hours of duty.

28 (C) No employee may work or remain on duty for
29 more than 24 consecutive hours in a 72-hour period.

30 (D) An employee who has been on duty for more

1 than 16 hours in a 24-hour period who informs the
2 health care facility that the employee needs
3 immediate rest must be relieved from duty as soon
4 thereafter as possible consistent with patient safety
5 needs and given at least eight hours uninterrupted
6 hours off duty before being required to return for
7 duty.

8 (ii) This exemption shall not exceed the duration of
9 the declared state of emergency or the health care
10 facility's direct role in responding to medical needs
11 resulting from the declared state of emergency, whichever
12 is less.

13 Section 5. Penalty.

14 Any employer who violates or fails to comply with any of the
15 provisions of this act is liable to the employee affected for an
16 amount equal to eight times the employee's regular hourly wage
17 less any amount actually paid to the employee by the employer.

18 Section 6. Effective date.

19 This act shall take effect in 120 days.